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**SENATE BILL 273**

**46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004**

**INTRODUCED BY**

**Carlos R. Cisneros**

**AN ACT**

**RELATING TO HEALTH; CREATING THE DEPUTY SECRETARY FOR NUTRITION AND THE NUTRITION AND FOOD SAFETY DIVISION IN THE DEPARTMENT OF ENVIRONMENT; PROVIDING FOR THE INTERDICTION OF CERTAIN FOODS, FOOD ADDITIVES AND FOOD PROCESSES TO PROTECT FOOD CONSUMED BY NEW MEXICANS; ALLOWING THE LEGISLATURE TO DETERMINE THAT FOOD IS ADULTERATED OR MISBRANDED UNDER THE NEW MEXICO FOOD ACT, THE MEAT INSPECTION ACT, THE NEW MEXICO DAIRY PRODUCT ACT AND OTHER FOOD-RELATED ACTS BECAUSE OF CARCINOGENS, NEUROTOXINS AND OTHER DELETERIOUS COMPOUNDS; PROVIDING A HIGHER STANDARD FOR FOOD AND FOOD PROCESSES THAN THAT ALLOWED BY THE FEDERAL GOVERNMENT; CREATING A COUNCIL; PROVIDING DUTIES; CREATING A FUND; REQUIRING NUTRITION COURSES IN PUBLIC SCHOOLS; REQUIRING NUTRITION EDUCATION FOR PHYSICIANS AND OTHER HEALTH CARE PRACTITIONERS LICENSED IN NEW MEXICO; REQUIRING STUDIES; RECONCILING MULTIPLE AMENDMENTS TO SECTION 74-1-8 NMSA 1978**

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1 (BEING LAWS 1971, CHAPTER 277, SECTION 11, AS AMENDED BY LAWS  
2 2000, CHAPTER 86, SECTION 2 AND LAWS 2000, CHAPTER 96, SECTION  
3 2); AMENDING AND ENACTING SECTIONS OF THE NMSA 1978; MAKING  
4 APPROPRIATIONS.

5  
6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

7 Section 1. [NEW MATERIAL] SHORT TITLE. -- Sections 1  
8 through 11 of this act may be cited as the "Nutrition Act".

9 Section 2. [NEW MATERIAL] FINDINGS AND PURPOSE. --

10 A. The legislature finds that federal authorities  
11 through regulation and legislation have not intended to or  
12 expressed an intention to occupy and preempt the matters  
13 addressed in this act and, therefore, there remains authority  
14 available to the legislature for regulation as it sees  
15 necessary to protect and ensure public health and safety for  
16 all New Mexicans.

17 B. The purpose of the Nutrition Act is to improve  
18 the quality of food grown in, produced in or imported into New  
19 Mexico or exported from New Mexico; to limit or label additives  
20 to food that are carcinogenic, neurotoxic or otherwise  
21 deleterious; to investigate and identify processes that when  
22 applied to foods are harmful to human health; and to educate  
23 New Mexico citizens in good nutritional choices.

24 Section 3. [NEW MATERIAL] DEFINITIONS. -- As used in the  
25 Nutrition Act:

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- 1           A. "council" means the nutrition council;
- 2           B. "department" means the department of
- 3           environment;
- 4           C. "deputy secretary" means the deputy secretary
- 5           for nutrition in the department;
- 6           D. "division" means the nutrition and food safety
- 7           division of the department; and
- 8           E. "secretary" means the secretary of environment.

9           Section 4. [NEW MATERIAL] DEPUTY SECRETARY FOR  
10          NUTRITION-- APPOINTMENT. -- The "deputy secretary for nutrition"  
11          is created in the department. The deputy secretary shall be  
12          appointed by the secretary, with the governor's approval, and  
13          serve at the pleasure of the secretary.

14          Section 5. [NEW MATERIAL] DEPUTY SECRETARY FOR  
15          NUTRITION-- DUTIES. --

16                A. The deputy secretary shall, at the direction of  
17                the secretary:

18                       (1) oversee department efforts on nutrition,  
19                       food safety and food service sanitation and coordinate related  
20                       efforts in other divisions and field offices of the department;

21                       (2) serve as departmental liaison with other  
22                       state agencies, including the department of health, children,  
23                       youth and families department, public education department,  
24                       corrections department, New Mexico livestock board, New Mexico  
25                       department of agriculture and organic commodity commission, in

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1 the development and implementation of nutrition and food safety  
2 programs and in the inspection duties of any agencies that  
3 involve livestock, food and food production; and

4 (3) convene the council and seek its advice,  
5 recommendations and assistance as he deems appropriate.

6 B. The deputy secretary shall recommend to the  
7 secretary any list of foods, food additives or food processes  
8 that the division and the council have determined should be  
9 interdicted or required to be clearly labeled because of  
10 carcinogens, neurotoxins or other deleterious compounds. If  
11 the secretary agrees with the determination of the division and  
12 council, the foods, food additives or food processes shall be  
13 included in the nutrition and food safety standards.

14 Section 6. [NEW MATERIAL] NUTRITION AND FOOD SAFETY  
15 DIVISION-- POWERS AND DUTIES. --

16 A. The "nutrition and food safety division" is  
17 created in the department to:

18 (1) enforce the provisions of the Nutrition  
19 Act, the New Mexico Food Act and other nutrition, food and food  
20 safety acts for which it has been given responsibility; and

21 (2) develop and implement nutrition and food  
22 safety programs to ensure the nutritional health of New  
23 Mexico's citizens and the safety of their food.

24 B. The division shall:

25 (1) examine New Mexico's food and food supply

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1 to identify those foods, food additives and food processes that  
2 should be interdicted or clearly labeled because of  
3 carcinogens, neurotoxins or other deleterious compounds;

4 (2) in conjunction with the New Mexico  
5 department of agriculture, examine pesticides, herbicides,  
6 carcinogens and other deleterious and harmful substances and  
7 toxic or potentially toxic compounds that should be banned from  
8 or clearly identified in all food grown in, sold in or imported  
9 into New Mexico;

10 (3) in coordination with the New Mexico  
11 department of agriculture and the New Mexico livestock board,  
12 inspect any food production facility, grocery store, dairy  
13 establishment, feed lot or growing field to obtain samples for  
14 testing;

15 (4) study ways to improve the operations of  
16 state government relating to nutrition programs and the  
17 provision of nutrition services to the citizens of the state;

18 (5) provide courses of instruction and  
19 practical training for employees of the department and other  
20 persons involved in the administration of nutrition programs  
21 with the objective of improving the operations and efficiency  
22 of the administration;

23 (6) develop nutrition education programs for  
24 food stamp recipients;

25 (7) in consultation with experts and the

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1 affected state agencies, develop nutrition programs for  
2 residents, patients or inmates of all state institutions and in  
3 public schools, colleges and universities;

4 (8) in conjunction with the department of  
5 health, develop public education programs and campaigns on  
6 health, nutrition and ideal weight maintenance; and

7 (9) consult with the university of New Mexico  
8 school of medicine to ensure that its nutrition curricula train  
9 medical students in basic nutrition and how to prevent and  
10 treat nutritional diseases.

11 Section 7. [NEW MATERIAL] NUTRITION AND FOOD SAFETY  
12 STANDARDS. -- In carrying out the provisions of Section 6 of the  
13 Nutrition Act, the department, in consultation with the  
14 council, the environmental improvement board, the New Mexico  
15 department of agriculture, the attorney general's office and  
16 scientific experts, may by rule establish standards for  
17 nutrition and food safety that are more stringent than those  
18 established by the federal government pursuant to the Federal  
19 Food, Drug and Cosmetic Act, the Federal Meat Inspection Act,  
20 the federal Poultry Products Inspection Act or other federal  
21 food and food safety acts. Nutrition and food safety standards  
22 adopted and promulgated by the department pursuant to the  
23 Nutrition Act shall be binding on all departments of state  
24 government in the regulation of food and food safety.

25 Section 8. [NEW MATERIAL] NUTRITION INSPECTORS. -- The

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1 division shall employ "nutrition inspectors", who shall inspect  
2 food production facilities, feed lots, growing fields and  
3 wholesale and retail food facilities for compliance with the  
4 Nutrition Act and rules promulgated in accordance with that  
5 act. The division may contract with the scientific laboratory  
6 of the department, a state university or private laboratory to  
7 examine and conduct biochemical analyses of foods grown or sold  
8 in New Mexico.

9 Section 9. [NEW MATERIAL] NUTRITION COUNCIL--CREATED--  
10 MEMBERSHIP.--

11 A. The "nutrition council" is created, composed of  
12 the following members:

13 (1) the assistant attorney general for  
14 consumer protection;

15 (2) the deputy secretary;

16 (3) the secretary of public education or his  
17 designee;

18 (4) the secretary of health or his designee;

19 and

20 (5) the following members appointed by the  
21 governor, who serve at the pleasure of the governor:

22 (a) one pediatrician;

23 (b) one internist or family  
24 practitioner;

25 (c) one cardiologist;

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- 1 (d) one toxicologist;
- 2 (e) one doctorate-level biochemist;
- 3 (f) one licensed nutritionist;
- 4 (g) one farmer;
- 5 (h) one rancher;
- 6 (i) one faculty member of the university
- 7 of New Mexico school of medicine;
- 8 (j) one dentist; and
- 9 (k) one public member who is appointed
- 10 on the basis of active involvement in the area of nutrition.

11 B. Members of the council who are not paid by  
12 taxpayer funds may receive per diem and mileage expenses  
13 pursuant to the Per Diem and Mileage Act, but shall receive no  
14 other compensation, perquisite or allowance.

15 C. The council shall annually elect a chairman and  
16 vice chairman. The council shall meet at the call of the  
17 chairman, a majority of the members or the deputy secretary.  
18 The division shall serve as staff to the council.

19 Section 10. [NEW MATERIAL] COUNCIL--DUTIES.--The council  
20 shall:

21 A. review the decisions of the division on matters  
22 of nutrition, including what constitutes "deleterious",  
23 "carcinogenic" and "toxic or potentially toxic";

24 B. advise the division and the deputy secretary on  
25 areas of concern such as:

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1 (1) the effect of food additives, specifically  
2 carcinogens and neurotoxins, on pregnant women, neonates and  
3 preschool-age children;

4 (2) the incidence of diabetes on Indian  
5 pueblos and reservations;

6 (3) the effects of food-induced hyperactivity  
7 and attention deficit disorders in children resulting from  
8 their ingestion of monosodium glutamate and excitotoxins;

9 (4) obesity in all age groups; and

10 (5) other areas deemed important by the  
11 secretary or the legislature for division or council focus;

12 C. make recommendations on the ways to improve  
13 nutrition in New Mexico;

14 D. assist the division in developing and  
15 disseminating educational materials on nutrition and on toxic  
16 or potentially toxic additives to foods and processes that  
17 result in food toxicity;

18 E. through the public education department, advise  
19 public school districts on the development of nutrition courses  
20 that are grade specific and that use texts in the field of  
21 nutrition, preventive cardiology, preventive oncology and  
22 preventive toxicology for New Mexico secondary school students;

23 F. develop a nutrition questionnaire to be sent to  
24 every student in New Mexico that will be used by the division  
25 to build a nutrition database; and

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1 G. investigate the quality of public school lunch  
2 programs on a district-by-district basis and, upon a finding  
3 that a program contains deleterious additives, shall recommend  
4 to the school district and the secretary of public education  
5 that the use of those additives be discontinued and the sources  
6 of food for the school lunch program be improved.

7 Section 11. [NEW MATERIAL] FUND CREATED. -- The "nutrition  
8 fund" is created in the state treasury. The fund shall consist  
9 of appropriations, gifts, grants, donations, bequests and  
10 settlements and awards from court cases filed in the name of  
11 the state against food growers or processors. Money in the  
12 fund shall not be transferred to any other fund at the end of a  
13 fiscal year. Money in the fund is appropriated to the board of  
14 regents of the university of New Mexico for the school of  
15 medicine for nutrition and health-related research and  
16 education. Expenditures shall be made on warrant of the  
17 secretary of finance and administration on vouchers signed by  
18 the deputy secretary or his designated representative. In  
19 order to free the university from any influences by  
20 corporations and their lobby groups, all gifts and  
21 contributions to the fund shall be scrutinized by the council.

22 Section 12. A new section of the Public School Code is  
23 enacted to read:

24 "[NEW MATERIAL] NUTRITION AND HEALTH COURSES. -- The  
25 department shall adopt and promulgate minimum standards and

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1 benchmarks for grade-specific nutrition and health courses. "

2 Section 13. Section 22-13-1 NMSA 1978 (being Laws 2003,  
3 Chapter 153, Section 57) is amended to read:

4 "22-13-1. SUBJECT AREAS--MINIMUM INSTRUCTIONAL AREAS  
5 REQUIRED--ACCREDITATION. --

6 A. The ~~[state board]~~ department shall require  
7 public schools to address ~~[state board approved]~~ department-  
8 approved academic content and performance standards when  
9 instructing in specific ~~[state board required]~~ department-  
10 required subject areas as provided in this section. A public  
11 school or school district failing to meet these minimum  
12 requirements shall not be accredited by the ~~[state board]~~  
13 department.

14 B. All first, second and third grade classes shall  
15 provide daily instruction in reading and language arts skills,  
16 including phonemic awareness, phonics and comprehension, and  
17 mathematics.

18 C. All first, second and third grade classes shall  
19 provide instruction in art, music and a language other than  
20 English.

21 D. In fourth through eighth grades, instruction  
22 that meets academic content and performance standards shall be  
23 provided in the following subject areas:

24 (1) reading and language arts skills, with an  
25 emphasis on writing and editing for at least one year and an

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1 emphasis on grammar and writing for at least one year;

2 (2) mathematics;

3 (3) language other than English;

4 (4) communication skills;

5 (5) science;

6 (6) art;

7 (7) music;

8 (8) social studies;

9 (9) New Mexico history;

10 (10) United States history;

11 (11) geography; ~~and~~

12 (12) physical fitness; and

13 (13) nutrition and health.

14 E. In fourth through eighth grades, school  
15 districts shall offer electives that contribute to academic  
16 growth and skill development and provide career and technical  
17 education. "

18 Section 14. Section 22-13-1.1 NMSA 1978 (being Laws 1986,  
19 Chapter 33, Section 5) is amended to read:

20 "22-13-1.1. GRADUATION REQUIREMENTS. --

21 A. At the end of the eighth grade or during the  
22 ninth grade, each student shall prepare an individual program  
23 of study for grades nine through twelve. The program of study  
24 shall be signed by a student's parent.

25 B. Successful completion of a minimum of ~~twenty-~~

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1 ~~three~~ twenty-four units aligned to the state academic content  
2 and performance standards shall be required for graduation.

3 These units shall be as follows:

4 (1) four units in English, with major emphasis  
5 on grammar and literature;

6 (2) three units in mathematics, at least one  
7 of which is equivalent to the algebra 1 level or higher;

8 (3) two units in science, one of which shall  
9 have a laboratory component; provided, however, that with  
10 students entering the ninth grade beginning in the 2005-2006  
11 school year, three units in science shall be required, one of  
12 which shall have a laboratory component;

13 (4) three units in social science, which shall  
14 include United States history and geography, world history and  
15 geography, and government and economics;

16 (5) one unit in physical education or other  
17 physical activity;

18 (6) one unit in communication skills or  
19 business education, with a major emphasis on writing and  
20 speaking and that may include a language other than English;

21 [~~and~~]

22 (7) one unit in nutrition and health; and

23 [~~(7) nine~~] (8) eight elective units and  
24 [~~eight~~] seven elective units for students entering the ninth  
25 grade in the 2005-2006 school year that meet [~~state board~~]

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1 department content and performance standards. Student service  
2 learning shall be offered as an elective.

3 C. Final examinations shall be administered to all  
4 students in all classes offered for credit.

5 D. A student shall not receive a high school  
6 diploma who has not passed a state graduation examination in  
7 the subject areas of reading, English, math, writing, science,  
8 nutrition and health and social science. The state graduation  
9 examination on social science shall include a section on the  
10 constitution of the United States and the constitution of New  
11 Mexico. If a student exits from the school system at the end  
12 of grade twelve without having passed a state graduation  
13 examination, he shall receive an appropriate state certificate  
14 indicating the number of credits earned and the grade  
15 completed. If within five years after a student exits from the  
16 school system he takes and passes the state graduation  
17 examination, he may receive a high school diploma.

18 E. The [~~state board~~] department may establish a  
19 policy to provide for administrative interpretations to clarify  
20 curricular and testing provisions of the Public School Code. "

21 Section 15. Section 25-2-1 NMSA 1978 (being Laws 1951,  
22 Chapter 169, Section 1) is amended to read:

23 "25-2-1. SHORT TITLE. -- [~~This Act~~] Chapter 25, Article 2  
24 NMSA 1978 may be cited as the "New Mexico Food Act". "

25 Section 16. Section 25-2-2 NMSA 1978 (being Laws 1951,  
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1 Chapter 169, Section 2, as amended) is amended to read:

2 "25-2-2. DEFINITIONS. -- For the purpose of the New Mexico  
3 Food Act:

4 A. "board" means the [~~environmental improvement~~  
5 ~~board~~] division;

6 B. "dairy establishment" means a milk processing or  
7 milk producing facility;

8 C. "division" means the nutrition and food safety  
9 division of the department of environment;

10 D. "director" means the [~~secretary of environment~~  
11 ~~or his authorized representative~~] director of the division;

12 E. "person" includes an individual, partnership,  
13 corporation and association;

14 F. "food" means:

15 (1) articles used for food or drink for ~~man~~ or  
16 animals;

17 (2) chewing gum; and

18 (3) articles used for components of food or  
19 drink or chewing gum for ~~man~~ or animals;

20 G. "label" means a display of written, printed or  
21 graphic matter upon the immediate container of any article. A  
22 requirement made by or under authority of the New Mexico Food  
23 Act that any word, statement or other information appear on the  
24 label shall not be considered to be complied with unless such  
25 word, statement or other information also appears on the

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1 outside container or wrapper, if any, of the retail package of  
2 such article or is easily legible through the outside container  
3 or wrapper;

4 H. "immediate container" does not include package  
5 liners;

6 I. "labeling" means all labels and other written,  
7 printed or graphic matter:

8 (1) upon an article or any of its containers  
9 or wrappers; or

10 (2) accompanying such article;

11 J. if an article is alleged to be misbranded  
12 because the labeling is misleading or if an advertisement is  
13 alleged to be false because it is misleading, then in  
14 determining whether the labeling or advertisement is  
15 misleading, there shall be taken into account, among other  
16 things, not only representations made or suggested by  
17 statement, word, design, device, sound or in any combination  
18 thereof, but also the extent to which the labeling or  
19 advertisement fails to reveal facts material in the light of  
20 such representations or material with respect to consequences  
21 [~~which~~] that may result from the use of the article to which  
22 the labeling or advertisement relates under the conditions of  
23 use prescribed in the labeling or advertisement [~~thereof~~] or  
24 under such conditions of use as are customary or usual;

25 K. "advertisement" means all representations

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1 disseminated in any manner or by any means, other than by  
2 labeling, for the purpose of inducing, or ~~which~~ that are  
3 likely to induce, directly or indirectly, the purchase of food;

4 L. "contaminated with filth" applies to any food  
5 not securely protected from dust, dirt and, so far as may be  
6 necessary by all reasonable means, ~~from~~ all foreign or  
7 injurious contaminations, or any food found to contain any  
8 dust, dirt, foreign or injurious contamination or infestation;

9 M the provisions shall be considered to include  
10 the manufacture, production, processing, packing, exposure,  
11 offer, possession and holding of any such article and the  
12 supplying or applying of any such articles in the conduct of  
13 any food establishment; and

14 N. "federal act" means the Federal Food, Drug and  
15 Cosmetic Act, ~~[21-USA § 301 et seq.]~~ the Federal Meat  
16 Inspection Act ~~[21-USA § 601 et seq.]~~ and the federal Poultry  
17 Products Inspection Act ~~[21-USA § 451 et seq.]~~."

18 Section 17. Section 25-2-9 NMSA 1978 (being Laws 1951,  
19 Chapter 169, Section 9, as amended) is amended to read:

20 "25-2-9. PROMULGATION OF DEFINITIONS AND STANDARDS BY THE  
21 ~~[BOARD]~~ DIVISION. --

22 A. Whenever in the judgment of the ~~[board]~~ division  
23 such action will promote honesty and fair dealing in the  
24 interest of consumers, the ~~[board]~~ division shall promulgate  
25 ~~[regulations]~~ rules fixing and establishing for any food or

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1 class of food a reasonable definition and standard of identity  
2 or reasonable standard of quality or fill of container or any  
3 combination of such requirements. In prescribing a definition  
4 and standard of identity for any food or class of food in which  
5 optional ingredients are permitted, the ~~[board]~~ division shall,  
6 for the purpose of promoting honesty and fair dealing in the  
7 interest of consumers, designate the optional ingredients  
8 ~~[which]~~ that shall be named on the label. ~~[The definitions and~~  
9 ~~standards so promulgated shall conform so far as practicable to~~  
10 ~~the definitions and standards promulgated under the authority~~  
11 ~~of the federal act.]~~

12 B. In promulgating ~~[regulations]~~ rules pursuant to  
13 this section, the ~~[board]~~ division shall follow the procedures  
14 set forth in Section 74-1-9 NMSA 1978. "

15 Section 18. Section 25-2-10 NMSA 1978 (being Laws 1951,  
16 Chapter 169, Section 10, as amended) is amended to read:

17 "25-2-10. WHEN FOOD DEEMED ADULTERATED. --A food shall be  
18 deemed to be adulterated:

19 A.

20 (1) if it bears or contains any poisonous or  
21 deleterious substance ~~[which]~~ that may render it injurious to  
22 health, but, in case the substance is not an added substance,  
23 ~~[such]~~ the food shall not be considered adulterated under this  
24 ~~[clause]~~ paragraph if the quantity of ~~[such]~~ the substance in  
25 ~~[such good]~~ the food does not ordinarily render it injurious to

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1 health; [or]

2 (2) if it bears or contains any added  
3 poisonous or added deleterious substance [~~whi-eh~~] that is unsafe  
4 within the meaning of Section [~~13-(54-1-13);-or~~] 25-2-13 NMSA  
5 1978;

6 (3) if it consists in whole or in part of a  
7 diseased, contaminated, filthy, impure or infested ingredient,  
8 putrid or decomposed substance or if it is otherwise unfit for  
9 food; [or]

10 (4) if it has been produced, prepared, packed  
11 or held under insanitary conditions whereby it may have been  
12 contaminated with filth or whereby it may have been rendered  
13 diseased, unwholesome or injurious to health; [or]

14 (5) if it is the product of a diseased animal  
15 or an animal [~~whi-eh~~] that has died otherwise than by slaughter  
16 or that has been fed upon the [~~uncooked~~] offal from a  
17 slaughterhouse; or

18 (6) if its container is composed in whole or  
19 in part of any poisonous or deleterious substance [~~whi-eh~~] that  
20 may render the contents injurious to health;

21 B.

22 (1) if any valuable constituent has been, in  
23 whole or in part, omitted or abstracted therefrom; [or]

24 (2) if any substance has been substituted  
25 wholly or in part therefor; [or]

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1 (3) if damage or inferiority has been  
2 concealed in any manner; or

3 (4) if any substance has been added [~~thereto~~]  
4 or mixed or packed [~~therewith~~] with the food so as to increase  
5 its bulk or weight or reduce its quality or strength or make it  
6 appear better or of greater value than it is;

7 C. if it is a confectionery and it bears or  
8 contains any alcohol or non-nutritive article or substance  
9 except harmless coloring, harmless flavoring, harmless resinous  
10 glaze not in excess of four-tenths [~~of one per centum (4/10%)~~]  
11 percent, harmless natural gum and pectin; provided that this  
12 [~~paragraph~~] subsection shall not apply to any confectionery by  
13 reason of its containing less than two and [~~one quarter per~~  
14 ~~centum~~] one-fourth percent by weight of alcohol derived solely  
15 from the use of flavoring extracts or to any chewing gum by  
16 reason of its containing harmless non-nutritive masticatory  
17 substances;

18 D. if it bears or contains a coal-tar color other  
19 than one from a batch [~~which~~] that has been certified under  
20 authority of the federal act; or

21 E. if it has been found by the department of  
22 environment to include carcinogens, neurotoxins or other  
23 deleterious compounds. "

24 Section 19. Section 25-2-11 NMSA 1978 (being Laws 1951,  
25 Chapter 169, Section 11) is amended to read:

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1 "25-2-11. WHEN FOOD DEEMED MISBRANDED. -- A food shall be  
2 deemed to be misbranded if:

3 [~~(a)~~—if] A. its labeling is false or misleading in  
4 any particular;

5 [~~(b)~~—if] B. it is offered for sale under the name  
6 of another food;

7 [~~(c)~~—if] C. it is an imitation of another food,  
8 unless its label bears, in type of uniform size and prominence,  
9 the word "imitation" and, immediately thereafter, the name of  
10 the food imitated;

11 [~~(d)~~—if] D. its container is so made, formed or  
12 filled as to be misleading;

13 [~~(e)~~—if] E. in package form, unless it bears a  
14 label containing:

15 (1) the name and place of business of the  
16 manufacturer, packer or distributor; or

17 (2) an accurate statement of the quantity of  
18 the contents in terms of weight, measure or numerical count;  
19 provided that under [~~clause (2) of~~] this paragraph reasonable  
20 variations shall be permitted and exemptions as to small  
21 packages shall be established by [~~regulations~~] rules prescribed  
22 by the [~~board~~] division;

23 [~~(f)~~—if] F. any word, statement or other  
24 information required by or under authority of [~~this~~] the New  
25 Mexico Food Act to appear on the label or labeling is not

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[bracketed material] = delete

1 prominently placed ~~[thereon]~~ on the label with such  
2 conspicuousness, as compared with other words, statements,  
3 designs or devices in the labeling, and in such terms as to  
4 render it likely to be read and understood by the ordinary  
5 ~~[individual]~~ person under customary conditions of purchase and  
6 use;

7 ~~[(g)—if]~~ G. it purports to be or is represented as  
8 a food for which a definition and standard of identity has been  
9 prescribed by ~~[regulations]~~ rules as provided by Section ~~[9]~~  
10 25-2-9 NMSA 1978 unless:

11 (1) it conforms to such definition and  
12 standard; and

13 (2) its label bears the name of the food  
14 specified in the definition and standard and, insofar as may be  
15 required by such ~~[regulations]~~ rules, the common names of  
16 optional ingredients, other than spices, flavoring and  
17 coloring, present in such food;

18 ~~[(h)—if]~~ H. it purports to be or is represented  
19 as:

20 (1) a food for which a standard of quality has  
21 been prescribed by ~~[regulations]~~ rules as provided by Section  
22 ~~[9]~~ 25-2-9 NMSA 1978 and its quality falls below ~~[such]~~ that  
23 standard unless its label bears in such manner and form as  
24 ~~[such—regulations]~~ the rules specify a statement that it falls  
25 below ~~[such]~~ the standard; or

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[bracketed material] = delete

1 (2) a food for which a standard [~~or standards~~]  
2 of fill of container [~~have~~] has been prescribed by [~~regulation~~]  
3 rule as provided by Section [9] 25-2-9 NMSA 1978 and it falls  
4 below the standard of fill of container applicable [~~thereto~~] to  
5 it, unless its label bears in such manner and form as [~~such~~  
6 ~~regulations~~] the rules specify a statement that it falls below  
7 [~~such~~] the standard;

8 [(i)—if] I. it is not subject to the provisions of  
9 [~~paragraph (g)~~] Subsection G of this section, unless it bears  
10 labeling clearly giving:

11 (1) the common or usual name of the food, if  
12 any [~~there be~~]; and

13 (2) in case it is fabricated from two or more  
14 ingredients, the common or usual name of each [~~such~~]  
15 ingredient, except that spices, flavorings and colorings, other  
16 than those sold as such, may be designated as spices,  
17 flavorings and colorings without naming each; provided that to  
18 the extent that compliance with the requirements of [~~clause (2)~~]  
19 ~~of~~] this paragraph is impractical or results in deception or  
20 unfair competition, exemptions shall be established by  
21 [~~regulations~~] rules promulgated by the [~~board~~] division; and  
22 provided further that the requirements of [~~Clause (2) of~~] this  
23 paragraph shall not apply to [~~any~~] a carbonated beverage, the  
24 ingredients of which have been fully and correctly disclosed in  
25 an affidavit filed with the [~~board~~] division;

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1           ~~[(j)—if]~~ J. it purports to be or is represented  
2 for special dietary uses, unless its label bears such  
3 information concerning its vitamin, mineral and other dietary  
4 properties as the ~~[board]~~ division determines to be, and by  
5 ~~[regulations—prescribed]~~ rule prescribes as, necessary in order  
6 to fully inform purchasers as to its value for such uses;

7           ~~[(k)—if]~~ K. it bears or contains any artificial  
8 flavoring, artificial coloring or chemical preservative, unless  
9 it bears labeling stating that fact; provided that to the  
10 extent that compliance with the requirements of this  
11 ~~[paragraph]~~ subsection is impracticable, exemptions shall be  
12 established by ~~[regulations]~~ rules promulgated by the ~~[board]~~  
13 division; or

14           L. it does not bear labeling required by the  
15 nutrition and food safety standards of the division because its  
16 contents include carcinogens, neurotoxins or other deleterious  
17 compounds. "

18           Section 20. Section 25-3-7 NMSA 1978 (being Laws 1969,  
19 Chapter 89, Section 2, as amended) is amended to read:

20           "25-3-7. DEFINITIONS. --As used in the Meat Inspection  
21 Act:

22           A. "board" means the New Mexico livestock board or,  
23 where appropriate, its executive director;

24           B. "health board" means the ~~[health and]~~ department  
25 of environment ~~[department of the state];~~

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1 C. "chief" means the chief veterinary meat  
2 inspector;

3 D. "meat" means the edible flesh of poultry, birds  
4 or animals as usually sold for human consumption and includes  
5 livestock, poultry and livestock and poultry products;

6 E. "livestock product" or "poultry product" means  
7 any product capable of use as human food [~~which~~] that is wholly  
8 or partially made from meat and is not specifically exempted by  
9 [~~regulation~~] rule of the board;

10 F. "prepared" means slaughtered, canned, salted,  
11 stuffed, rendered, boned, cut up or otherwise manufactured or  
12 processed;

13 G. "federal acts" means the Federal Meat Inspection  
14 Act, 34 Stat. 1260, as amended by the Wholesome Meat Act, 81  
15 Stat. 584 and the federal Poultry Products Inspection Act, 71  
16 Stat. 441, as amended by the Wholesome Poultry Products Act, 82  
17 Stat. 791;

18 H. "pesticide chemical", "food additive", "color  
19 additive" and "raw agricultural commodity" [~~shall~~] have the  
20 same meanings for the Meat Inspection Act as for the Federal  
21 Food, Drug and Cosmetic Act, 52 Stat. 1040, as amended;

22 I. "adulterated" means the term applied to any meat  
23 if:

24 (1) [~~if~~] it bears or contains any poisonous or  
25 deleterious substance [~~which~~] that may render it injurious to

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[bracketed material] = delete

1 health ~~[provided that any substance not added to meat shall not~~  
2 ~~be considered adulterating if the quantity of the substance is~~  
3 ~~insufficient to ordinarily render it injurious to health]~~ as  
4 prescribed by the board or state law;

5 (2) [if] it bears or contains, by reason of  
6 administration of any substance to the meat, any added  
7 poisonous or added deleterious substance ~~[other than a color~~  
8 ~~additive, a food additive or a pesticide chemical in or on a~~  
9 ~~raw agricultural commodity, any of which may]~~ that in the  
10 board's judgment ~~[make such article]~~ or by state law makes the  
11 meat unfit for human food;

12 (3) [if] it is in whole or in part a raw  
13 agricultural commodity and bears or contains a pesticide  
14 chemical ~~[which]~~ that is unsafe ~~[within the meaning of Section~~  
15 ~~408 of the Federal Food, Drug and Cosmetic Act]~~ as determined  
16 by the New Mexico department of agriculture or state law;

17 (4) [if] it bears or contains any food  
18 additive ~~[which]~~ that is unsafe ~~[within the meaning of Section~~  
19 ~~409 of the Federal Food, Drug and Cosmetic Act]~~ as determined  
20 by state law;

21 (5) [if] it bears or contains any color  
22 additive ~~[which]~~ that is unsafe ~~[within the meaning of Section~~  
23 ~~706 of the Federal Food, Drug and Cosmetic Act]~~ as determined  
24 by state law; provided that ~~[an article which]~~ meat that is not  
25 otherwise deemed adulterated under ~~[Paragraphs]~~ this paragraph

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1 or Paragraph (3) or (4) [~~or (5)~~] of this [section] subsection  
2 shall be deemed adulterated if use of the pesticide chemical,  
3 food additive or color additive in or on [~~such article~~] meat is  
4 prohibited by [~~regulation of the board~~] the nutrition and food  
5 safety standards of the department of environment;

6 (6) [if] it consists in whole or in part of  
7 any filthy, putrid or decomposed substance or is for any other  
8 reason unsound, unhealthful, unwholesome or otherwise unfit for  
9 human food;

10 (7) [if] it has been prepared, packed or held  
11 under [~~unsanitary~~] insanitary conditions whereby it may have  
12 become contaminated with filth or whereby it may have been  
13 rendered injurious to health;

14 (8) [if] it is in whole or in part the product  
15 of an animal, including poultry, [~~which has~~] that died  
16 otherwise than by slaughter;

17 (9) [if] its container is composed in whole or  
18 in part of any poisonous or deleterious substance [~~which~~] that  
19 may render the contents injurious to health;

20 (10) [if] it has been intentionally subjected  
21 to radiation unless the use of the radiation was in conformity  
22 with a regulation or exemption in effect pursuant to Section  
23 409 of the Federal Food, Drug and Cosmetic Act;

24 (11) [if] any valuable constituent has been,  
25 in whole or in part, omitted or abstracted [~~therefrom~~] or if

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[bracketed material] = delete

1 any substance has been substituted wholly or in part [~~therefor~~]  
2 or if damage or inferiority has been concealed in any manner or  
3 if any substance has been added [~~thereto~~] or mixed or packed  
4 [~~therewith~~] with the meat so as to increase its bulk or weight  
5 or reduce its quality or strength or make it appear better or  
6 of greater value than it is; or

7 (12) [~~if~~] it is margarine containing animal  
8 fat and any of the raw material used [~~therein~~] consisted in  
9 whole or in part of any filthy, putrid or decomposed substance;

10 J. "misbranded" means the term applied to meat:

11 (1) if its labeling is false or misleading in  
12 any particular;

13 (2) if it is offered for sale under the name  
14 of another food;

15 (3) if it is an imitation of another food,  
16 unless its label bears in type of uniform size and prominence  
17 the word "imitation" and immediately thereafter the name of the  
18 food being imitated;

19 (4) if its container is so made, formed or  
20 filled as to be misleading;

21 (5) unless it bears a label showing:

22 (a) the name and place of business of  
23 the manufacturer, packer or distributor; and

24 (b) an accurate statement of the  
25 quantity of the product in terms of weight, measure or

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[bracketed material] = delete

1 numerical count; provided that the board may make [~~regulations~~]  
2 rules exempting small meat packages, meat not in containers and  
3 other reasonable variations;

4 (6) if any word, statement or other  
5 information required by or under the Meat Inspection Act or the  
6 nutrition and food safety standards of the department of  
7 environment to appear on the label or other labeling is not  
8 prominently placed [~~thereon~~] on the label with such  
9 conspicuousness, as compared with other words, statements,  
10 designs or devices in the labeling, and is not stated in such  
11 terms as to render it likely to be read and understood by the  
12 ordinary [~~individual~~] person under customary conditions of  
13 purchase and use;

14 (7) if it purports to be or is represented as  
15 a food for which a definition and standard of [~~identify~~]  
16 identity or composition has been prescribed by the  
17 [~~regulations~~] rules of the board under Section [~~5 of the Meat~~  
18 ~~Inspection Act~~] 25-3-13 NMSA 1978 or the nutrition and food  
19 safety standards of the department of environment, unless:

20 (a) it conforms to [~~such~~] the definition  
21 and standard; and

22 (b) its label bears the name of the food  
23 specified in the definition and standard and, insofar as may be  
24 required by [~~such regulations~~] the rules, the common names of  
25 optional ingredients, other than spices, flavoring and

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[bracketed material] = delete

1 coloring, present in ~~[such]~~ the food;

2 (8) if it purports to be or is represented as  
3 a food for which a standard ~~[or standards]~~ of fill of container  
4 ~~[have]~~ has been prescribed by ~~[regulations]~~ rules of the board  
5 under Section ~~[5 of the Meat Inspection Act]~~ 25-3-13 NMSA 1978  
6 and it falls below the standard of fill of container applicable  
7 ~~[thereto]~~, unless its label bears in such manner and form as  
8 ~~[such regulations]~~ the rules specify a statement that it falls  
9 below ~~[such]~~ standard;

10 (9) if it is not subject to the provisions of  
11 Paragraph (7) of this subsection unless its label bears:

12 (a) the common or usual name of the  
13 food, if any ~~[there be]~~; and

14 (b) in case it is fabricated from two or  
15 more ingredients, the common or usual name of each ~~[such]~~  
16 ingredient, except that spices, flavorings and colorings ~~may~~,  
17 when authorized by the board and not in conflict with the  
18 nutrition and food safety standards of the department of  
19 environment, be designated as spices, flavorings and colorings  
20 without naming each; provided that to the extent that  
21 compliance with the requirements of this paragraph ~~[(9)-(b)]~~ is  
22 impracticable or results in deception or unfair competition,  
23 exemptions ~~[shall]~~ may be established by ~~[regulations]~~ rules  
24 promulgated by the board;

25 (10) if it purports to be or is represented

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[bracketed material] = delete

1 for special dietary uses, unless its label bears such  
2 information concerning its vitamin, mineral and other dietary  
3 properties as the board, after consultation with the [secretary  
4 of agriculture of the United States] nutrition and food safety  
5 division of the department of environment, determines to be,  
6 and by [regulations] rules prescribes as, necessary in order to  
7 fully inform purchasers as to its value for such uses;

8 (11) if it bears or contains any artificial  
9 flavoring, artificial coloring or chemical preservative, unless  
10 it bears labeling stating that fact; provided that to the  
11 extent that compliance with the requirements of this paragraph  
12 [~~(11)~~] is impracticable, exemptions [~~shall~~] may be established  
13 by [regulations] rules promulgated by the board in conformance  
14 with the nutrition and food safety standards of the department  
15 of environment; or

16 (12) if it fails to bear directly thereon and  
17 on its containers, as the board may by [regulations] rules  
18 prescribe, the official inspection legend and establishment  
19 number of the establishment where the product was prepared and,  
20 unrestricted by any of the foregoing, such other information as  
21 the board may require in [~~such regulations~~] the rules to  
22 [~~assure~~] ensure that it will not have false or misleading  
23 labeling and that the public will be informed of the manner of  
24 handling required to maintain the article in a wholesome  
25 condition;

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1           K. "livestock" means any cattle, sheep, swine,  
2 goats, horses, asses, mules, [ø] other equines, rabbits,  
3 bison, camelids, farmed cervidae, antelope and other exotic or  
4 game animal, whether live or dead;

5           L. "poultry" means any wild or domesticated bird,  
6 whether live or dead, including ratites; and

7           M. "official establishment" means any establishment  
8 licensed by the board at which inspection of the slaughter of  
9 livestock or poultry or the preparation of meat food products  
10 is maintained under the provision of the Meat Inspection Act. "

11           Section 21. Section 25-7A-10 NMSA 1978 (being Laws 1993,  
12 Chapter 188, Section 10) is amended to read:

13           "25-7A-10. DAIRY PRODUCTS--ADULTERATED. --A dairy product  
14 shall be deemed to be adulterated if:

15           A. it bears or contains any poisonous or  
16 deleterious substance that may render it injurious to health  
17 [~~but, in case the substance is not an added substance, the~~  
18 ~~dairy product shall not be considered adulterated under this~~  
19 ~~subsection if the quantity of the substance in the dairy~~  
20 ~~product does not ordinarily render it injurious to health] as  
21 prescribed by the board or the nutrition and food safety  
22 standards of the department of environment;~~

23           B. it bears or contains any added poisonous or  
24 added deleterious substance that is unsafe within the meaning  
25 of Section [~~13 of the New Mexico Dairy Product Act~~] 25-7A-13

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1 NMSA 1978 or the nutrition and food safety standards of the  
2 department of environment;

3 C. it consists in whole or in part of a diseased,  
4 contaminated, filthy, impure or infested ingredient, putrid or  
5 decomposed substance or is otherwise unfit for food;

6 D. it has been produced, prepared, packed or held  
7 under [~~unsanitary~~] insanitary conditions whereby it may have  
8 been contaminated with filth or whereby it may have been  
9 rendered diseased, unwholesome or injurious to health;

10 E. it is the product of a diseased animal or an  
11 animal that has died otherwise than by slaughter or that has  
12 been fed upon the [~~uncooked~~] offal from a slaughterhouse;

13 F. its container is composed in whole or in part of  
14 any poisonous or deleterious substance that may render the  
15 contents injurious to health;

16 G. any valuable constituent has been, in whole or  
17 in part, omitted or abstracted therefrom;

18 H. any substance has been substituted wholly or in  
19 part therefor;

20 I. damage or inferiority has been concealed in any  
21 manner;

22 J. any substance has been added or mixed or packed  
23 therewith so as to increase its bulk or weight or reduce its  
24 quality or strength or make it appear better or of greater  
25 value than it is; [~~or~~]

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[bracketed material] = delete

1 K. it bears or contains a coal-tar color [~~other~~  
2 ~~than one from a batch that has been certified under authority~~  
3 ~~of the federal act~~]; or

4 L. it has been found by the department of  
5 environment to include carcinogens, neurotoxins or other  
6 deleterious compounds."

7 Section 22. Section 25-7A-11 NMSA 1978 (being Laws 1993,  
8 Chapter 188, Section 11) is amended to read:

9 "25-7A-11. MISBRANDED DAIRY PRODUCT. --A dairy product  
10 within a dairy establishment shall be deemed to be misbranded  
11 if:

12 A. its labeling is false or misleading in any  
13 particular manner;

14 B. it is offered for sale under the name of another  
15 dairy product;

16 C. it is an imitation of another dairy product,  
17 unless its label bears, in type of uniform size and prominence,  
18 the word "imitation" and, immediately thereafter, the name of  
19 the dairy product imitated;

20 D. its container is so made, formed or filled as to  
21 be misleading;

22 E. it is in package form, unless it bears a label  
23 containing:

24 (1) the name and place of business of the  
25 manufacturer, packer or distributor; or

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1 (2) an accurate statement of the quantity of  
2 the contents in terms of weight, measure or numerical count;  
3 provided that under this paragraph reasonable variations shall  
4 be permitted and exemptions as to small packages shall be  
5 established by [~~regulations~~] rules prescribed by the board;

6 F. any word, statement or other information  
7 required by or under authority of the New Mexico Dairy Product  
8 Act to appear on the label or labeling is not prominently  
9 placed with such conspicuousness, as compared with other words,  
10 statements, designs or devices in the labeling, and in such  
11 terms as to render it likely to be read and understood by the  
12 ordinary [~~individual~~] person under customary conditions of  
13 purchase and use;

14 G. it purports to be or is represented as a dairy  
15 product for which a definition and standard of identity has  
16 been prescribed by [~~regulations~~] rules as provided by Section  
17 [~~9 of the New Mexico Dairy Product Act~~] 25-7A-9 NMSA 1978,  
18 unless:

19 (1) it conforms to such definition and  
20 standard; and

21 (2) its label bears the name of the dairy  
22 product specified in the definition and standard and, insofar  
23 as may be required by such [~~regulations~~] rules, the common  
24 names of optional ingredients, other than spices, flavoring and  
25 coloring, present in such dairy product;

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1 H. it purports to be or is represented as:

2 (1) a dairy product for which a standard of  
3 quality has been prescribed by [~~regulations~~] rules as provided  
4 by Section [~~9 of the New Mexico Dairy Product Act~~] 25-7A-9 NMSA  
5 1978 or the nutrition and food safety standards of the  
6 department of environment and its quality falls below that  
7 standard, unless its label bears in such manner and form as the  
8 [~~regulations~~] rules or standards specify a statement that it  
9 falls below the standard; or

10 (2) a food for which a standard of fill of  
11 container has been prescribed by [~~regulation~~] rule as provided  
12 by Section [~~9 of the New Mexico Dairy Product Act~~] 25-7A-9 NMSA  
13 1978 and it falls below the standard of fill of container  
14 applicable to it, unless its label bears in such manner and  
15 form as the [~~regulations~~] rules specify a statement that it  
16 falls below the standard;

17 I. it is not subject to the provisions of  
18 Subsection G of this section, unless it bears labeling clearly  
19 giving:

20 (1) the common or usual name of the dairy  
21 product, if any; and

22 (2) in case it is fabricated from two or more  
23 ingredients, the common or usual name of each ingredient,  
24 except that spices, flavorings and colorings, other than those  
25 sold as such, may be designated as spices, flavorings and

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1 colorings without naming each unless otherwise provided by the  
2 nutrition and food safety standards of the department of  
3 environment; provided that to the extent that compliance with  
4 the requirements of this paragraph is impracticable or results  
5 in deception or unfair competition, exemptions shall be  
6 established by [~~regulations~~] rules promulgated by the board, in  
7 accordance with those standards;

8 J. it purports to be or is represented for special  
9 dietary uses, unless its label bears such information  
10 concerning its vitamin, mineral and other dietary properties as  
11 the board determines to be, and by [~~regulations~~] rules  
12 prescribes as, necessary in order to fully inform purchasers as  
13 to its value for such uses; and

14 K. it bears or contains any artificial flavoring,  
15 artificial coloring or chemical preservative allowable pursuant  
16 to the nutrition and food safety standards of the department of  
17 environment, unless it bears labeling stating that fact;  
18 provided that to the extent that compliance with the  
19 requirements of this subsection is impracticable, exemptions  
20 shall be established by [~~regulations~~] rules promulgated by the  
21 board. "

22 Section 23. A new section of the Nursing Practice Act is  
23 enacted to read:

24 "[NEW MATERIAL] NUTRITION EDUCATION MANDATORY. -- The board  
25 shall establish by rule requirements for mandatory nutrition

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1 education for certified nurse practitioners and clinical nurse  
2 specialists. "

3 Section 24. A new section of the Dental Health Care Act  
4 is enacted to read:

5 "[NEW MATERIAL] NUTRITION EDUCATION MANDATORY. --The board  
6 shall establish by rule requirements for mandatory nutrition  
7 education for dentists. "

8 Section 25. A new section of the Medical Practice Act is  
9 enacted to read:

10 "[NEW MATERIAL] NUTRITION EDUCATION MANDATORY. --The board  
11 shall establish by rule requirements for mandatory nutrition  
12 education for physicians and physician assistants. "

13 Section 26. A new section of the Professional  
14 Psychologist Act is enacted to read:

15 "[NEW MATERIAL] NUTRITION EDUCATION MANDATORY. --The board  
16 shall establish by rule requirements for mandatory nutrition  
17 education for psychologists. "

18 Section 27. A new section of the Counseling and Therapy  
19 Practice Act is enacted to read:

20 "[NEW MATERIAL] NUTRITION EDUCATION MANDATORY. --The board  
21 shall establish by rule requirements for mandatory nutrition  
22 education for counselors and therapists. "

23 Section 28. A new section of Chapter 61, Article 10 NMSA  
24 1978 is enacted to read:

25 "[NEW MATERIAL] NUTRITION EDUCATION MANDATORY. --The board

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[bracketed material] = delete

1 shall establish by rule requirements for mandatory nutrition  
2 education for osteopathic physicians. "

3 Section 29. Section 74-1-8 NMSA 1978 (being Laws 1971,  
4 Chapter 277, Section 11, as amended by Laws 2000, Chapter 86,  
5 Section 2 and also by Laws 2000, Chapter 96, Section 2) is  
6 amended to read:

7 "74-1-8. BOARD--DUTIES. --

8 A. The board is responsible for environmental  
9 management and consumer protection. In that respect, the board  
10 shall promulgate rules and standards in the following areas:

11 [~~(1)~~—~~food protection;~~

12 ~~(2)] (1) water supply, including a capacity  
13 development program to assist water systems in acquiring and  
14 maintaining technical, managerial and financial capacity in  
15 accordance with Section 1420 of the federal Safe Drinking Water  
16 Act and rules authorizing imposition of administrative  
17 penalties for enforcement;~~

18 [~~(3)] (2) liquid waste, including exclusive  
19 authority to establish on-site liquid waste system fees that  
20 are no more than the average charged by the contiguous states  
21 to New Mexico for similar permits and services and to implement  
22 and administer an inspection and permitting program for on-site  
23 liquid waste systems;~~

24 [~~(4)] (3) air quality management as provided  
25 in the Air Quality Control Act;~~

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[bracketed material] = delete

1                    [~~(5)~~] (4) radiation control and establishment  
2 of license, registration and other related fees not to exceed  
3 fees charged by the United States nuclear regulatory commission  
4 for similar licenses as provided in the Radiation Protection  
5 Act;

6                    [~~(6)~~] (5) noise control;

7                    [~~(7)~~] (6) nuisance abatement;

8                    [~~(8)~~] (7) vector control;

9                    [~~(9)~~] (8) occupational health and safety as  
10 provided in the Occupational Health and Safety Act;

11                    [~~(10)~~] (9) sanitation of public swimming pools  
12 and public baths;

13                    [~~(11)~~] (10) plumbing, drainage, ventilation  
14 and sanitation of public buildings in the interest of public  
15 health;

16                    [~~(12)~~] (11) medical radiation, health and  
17 safety certification and standards for radiologic technologists  
18 as provided in the Medical Radiation Health and Safety Act;

19                    [~~(13)~~] (12) hazardous wastes and underground  
20 storage tanks as provided in the Hazardous Waste Act; and

21                    [~~(14)~~] (13) solid waste as provided in the  
22 Solid Waste Act.

23                    B. Nothing in Subsection A of this section imposes  
24 requirements for the approval of subdivision plats in addition  
25 to those required elsewhere by law. Nothing in Subsection A of

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[bracketed material] = delete

1 this section preempts the authority of any political  
2 subdivision to approve subdivision plats.

3 C. Administrative penalties collected pursuant to  
4 Paragraph [~~(2)~~] (1) of Subsection A of this section shall be  
5 deposited in the water conservation fund.

6 D. Radiation license, registration and other  
7 related fees shall be deposited in the radiation protection  
8 fund.

9 [~~D-~~] E. On-site liquid waste system fees shall be  
10 deposited in the liquid waste fund. "

11 Section 30. TEMPORARY PROVISION--UNIVERSITY OF NEW MEXICO  
12 SCHOOL OF MEDICINE FOOD ADDITIVES AND PESTICIDES STUDIES. --The  
13 obstetrics, neonatology and pediatrics departments of the  
14 university of New Mexico school of medicine shall conduct a  
15 study on the precise medical effects of food additives on  
16 pregnant women, fetuses and children under the age of five and  
17 a study on the effects of living near or working in fields of  
18 farms spraying pesticides, herbicides and insecticides.

19 Section 31. APPROPRIATIONS. --

20 A. Three million four hundred thousand dollars  
21 (\$3,400,000) is appropriated from the general fund to the  
22 department of environment for expenditure in fiscal year 2005  
23 for staff, equipment and furnishings for the deputy secretary  
24 for nutrition and the nutrition and food safety division of the  
25 department of environment and for the per diem and mileage

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underscored material = new  
[bracketed material] = delete

1 expenses of the nutrition council. Any unexpended or  
2 unencumbered balance remaining at the end of fiscal year 2005  
3 shall revert to the general fund.

4 B. One million five hundred thousand dollars  
5 (\$1,500,000) is appropriated from the general fund to the  
6 nutrition fund for expenditure in fiscal year 2005 and  
7 subsequent fiscal years to carry out the provisions of the  
8 Nutrition Act. Any unexpended or unencumbered balance  
9 remaining at the end of a fiscal year shall not revert to the  
10 general fund. Any unexpended or unencumbered balance remaining  
11 at the end of fiscal year 2005 shall revert to the general  
12 fund.

13 C. Four hundred thousand dollars (\$400,000) is  
14 appropriated from the general fund to the public education  
15 department for expenditure in fiscal years 2005 and 2006 to  
16 employ nutritionists to assist school districts in the public  
17 schools. Any unexpended or unencumbered balance remaining at  
18 the end of fiscal year 2006 shall revert to the general fund.

19 D. Three hundred thousand dollars (\$300,000) is  
20 appropriated from the general fund to the board of regents of  
21 the university of New Mexico for expenditure in fiscal years  
22 2005 through 2007 to perform the studies provided for in  
23 Section 30 of this act. Any unexpended or unencumbered balance  
24 remaining at the end of fiscal year 2007 shall revert to the  
25 general fund.